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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,599	12/11/2003	Chris Fry	BEAS-01333US1 SRM/DTX	8210
23910	7590	06/05/2006	EXAMINER	
FLIESLER MEYER, LLP FOUR EMBARCADERO CENTER SUITE 400 SAN FRANCISCO, CA 94111			CHANG, JUNGWON	
		ART UNIT	PAPER NUMBER	
			2154	

DATE MAILED: 06/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/733,599	FRY, CHRIS	
	Examiner Jungwon Chang	Art Unit 2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 28 November 2005.
- 2a) This action is FINAL.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-11,20-32,34-37,39-46,48-51 and 53-60 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-11, 20-32, 34-37, 39-46 and 48-51 and 53-60 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

**FINAL ACTION**

1. This office action is in response to amendment filed on 11/28/05.
2. Claims 1-11, 20-32, 34-37, 39-46 and 48-51 and 53-60 are presented for examination.
3. Claims 59 and 60 are objected to because of the following informalities: Labeling "new claim" should be "previously presented". The claims 59-60 have been added in previous amendment filed on 09/28/05.
4. The rejection 35 U.S.C. 112, first paragraph, is withdrawn in view of amendment.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 1-6, 9-11, 20-32, 34, 37, 39-46, 48, 51 and 53-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iyer (2001/0037367), in view of Yamamoto (2003/0037110) and Yasue (2003/0009525).

7. As to claim 1, Iyer discloses the invention substantially as claimed, including a system to provide conversation states (current state, 36, fig. 2; page 3, [0026], lines 3-5; page 3, [0029], lines 5-8), comprising:

    a first computing device (recipient; client, fig. 1) capable of accepting a message during a conversation between the process running on the first computing device and another process (page 1, [0010]; conversation between an owner and a visitor; page 3, [0030]; negotiating the control of the virtual area between the first and the second users; page 5, claim 1) (visitor clients can connect to the shared area in order to communicate with one another; page 2, [0022]);

    a second computing device (client, fig. 1) capable of:

        maintaining a state requested by the message (send a message to the existing owner informing him that a new visitor wants to be a co-owner; page 4, [0037]; fig. 7) and storing information of the state in memory on the second computing device (84, fig. 5) (70, 72, fig. 4b; page 1, [0008], lines 10-18; page 2, [0026]; page 3, [0026]; page 3, [0031]); and

    a conversation manager (server, 18, figs. 1 and 6) capable of:

        providing the information of the state to the first computing device (figs. 2-3; page 2, [0025] – page 3, [0026]).

8. Iyer discloses identifying location information (unique identifier identifying a specific portion; page 3, 0028; location ID; page 3, 0030), and providing the location information to the first computing device (at steps 66 and 68, the SA ID and/or Location

ID along with owner information are encoded in the visitor device; page 3, 0030). However, Iyer does not specifically disclose the location information of the second computing device, which maintains the state information. Yamamoto discloses identifying the location of the second computing device, which maintains the state requested by the message (identifying the locations of the users in a peer-to-peer; page 1, [0007]; current location of terminal; page 2, [0016]; page 3, [0046]-[0052]; page 4, [0053], [0055]); and providing the location to the first computing device (page 5, [0074], [0087]; page 8, [0138]). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Iyer and Yamamoto because Yamamoto's identifying and providing the location of computing device would allow participants who are chatting in the chat room to keep track of their partners' locations (Yamamoto, page 1, [0012]).

Iyer discloses storing information of the state in memory (84, fig. 5) (72, fig. 4b; page 1, [0008], lines 10-18; temporary memory buffer; page 1, 0009; page 2, [0026]; page 3, [0026]; page 3, [0030], lines 13-17). However, Iyer does not specifically disclose storing information in non-persistent memory. Yasue discloses storing information in non-persistent memory (201b, fig. 3; stores the chat room data to RAM; page 8, 0132; harassment report mail based on the report form input information stored to RAM of the system memory 201 B; page 8, 0135-0136; in the message log of the chat room data stored to RAM; page 8, 0137). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Iyer and Yasue

because Yasue's non-persistent memory would provide faster access times than persistent memory.

9. As to claim 2, Iyer discloses the first and second computing device form a cluster (members of the group; page 1, [0005]; page 1, [0012]; page 5, [0038], lines 1-11).

10. As to claim 3, Iyer discloses the conversation manager is capable of maintaining the locations of all states in the system (20, 22, fig. 1; 19, 20, fig. 6; page 2, [0025]; page 4, [0033]; page 4, [0034], lines 29-46).

11. As to claims 4-6, Iyer discloses the information include a map of every state leased, owned, or stored on it (visitor or exit; 96, fig. 7; owner; 102, fig. 7; page 1, [0008], lines 10-18; fig. 2; owner name; page 3, [0026], [0028], [0030], lines 13-17; page 4, [0033], lines 5-8).

12. As to claim 9, Iyer discloses the conversation manager is capable of periodically determining the availability of computing devices (license right manager 19 can verify the status of the visitors at predetermined time intervals; page 4, [0034], lines 39-42).

13. As to claim 10, it is rejected for the same reasons set forth in claim 1 above. In addition, Iyer discloses a conversation partner (sender; client; fig. 1) capable of providing a message for a conversation (visitors can communicate with the owner and

other visitors through message, chat rooms; page 5, [0038], lines 18-28).

14. As to claim 11, Iyer discloses the message includes a conversation ID (fig. 4a; header portion includes a unique electronic identifier; page 3, [0028]).

15. As to claim 20, Iyer discloses the first computing device is capable of contacting the conversation manager to determine the location of a state requested by the message using the conversation ID (page 3, [0028], lines 9-23; shared area ID and location ID along with owner information are encoded in the visitor device; page 3, [0030], lines 11-13).

16. As to claim 21, Iyer discloses the first computing device is capable of answering a request for the state directly without contacting the conversation manager if it owns such state (it is possible that during the control of one owner, visitors can communicate with the owner without the assistance of the ARM; page 5, [0038], lines 15-18).

17. As to claims 22-24, Iyer discloses the conversation manager is capable of accepting the request for the location of a state from the first computing device (page 3, [0028], lines 9-23; shared area ID and location ID along with owner information are encoded in the visitor device; page 3, [0030], lines 11-13).

18. As to claim 25, Iyer discloses the first computing device is capable of invoking

the state on the second computing device in order to respond to the conversation message received (visitors can comment on the music CD...and ask to stop playing, to fast forward, or to replay the CD...based on the reaction of the visitors, the owner wants to make appropriate changes; page 5, [0038], lines 22-28).

19. As to claim 26, Iyer discloses the conversation manager is capable of sharing a state with at least two conversations (sharing of information through a communication network; page 1, [0002], [0008], [0009]).

20. As to claim 27, Iyer discloses the conversation manager is capable of tracking a participating Web service that initiates conversation (license right manager 19 which monitors the right of the owner to play and the right of the visitor to view the played movie; page 4, [0034], lines 29-35; license right manager 19 can verify the status of the visitors at predetermined time intervals; page 4, [0034], lines 39-42).

21. As to claim 28, Iyer discloses the conversation manager is capable of sharing a state with at least two Web services (a group of friends can share music CDs in the shared area; page 5, [0038], lines 1-5; and joining the sessions of these services (the visitors are invited by the owner will be able to hear the music; page 1, [0009], lines 1-7; page 1, [0012]; joining; page 2, [0019]).

22. As to claim 29, it is rejected for the same reasons set forth in claims 1 and 10

above. In addition, Iyer discloses providing a conversation for a Web service (sharing information through a web site; page 1, [0003]; page 1, [0009]; shared area has a unique identifier such as a universal resource locator for the world wide web, contain information; page 2, [0022], lines 12-22; page 5, [0041]); accepting a conversation message from a conversation partner (visitors can communicate with the owner and other visitors through message, chat rooms; page 5, [0038], lines 18-28); contacting a conversation manager to determine the location of the state for a conversation (when an attempt is made to use or access a particular piece of subject information which stored in a file, the visitor client will have to verify the existence of the owner, the shared area ID, and the location ID; page 3, [0028], lines 9-23; shared area ID and location ID along with owner information are encoded in the visitor device; page 3, [0030], lines 11-13); accepting (receiving) the location of a state from the conversation manager (page 3, [0028], lines 9-23; shared area ID and location ID along with owner information are encoded in the visitor device; page 3, [0030], lines 11-13); invoking a state on a computing device in order to respond to the conversation message received (visitors can comment on the music CD...and ask to stop playing, to fast forward, or to replay the CD...based on the reaction of the visitors, the owner wants to make appropriate changes; page 5, [0038], lines 22-28).

23. As to claim 30, it is rejected for the same reasons set forth in claim 29 above. In addition, Iyer discloses invoking a state on a computing device in order to respond to the conversation message received (visitors can comment on the music CD...and ask

to stop playing, to fast forward, or to replay the CD...based on the reaction of the visitors, the owner wants to make appropriate changes; page 5, [0038], lines 22-28) directly without contacting the conversation manager (it is possible that during the control of one owner, visitors can communicate with the owner without the assistance of the ARM, i.e., authentication and management, 20, fig. 1; page 5, [0038], lines 15-18).

24. As to claim 31, it is rejected for the same reasons set forth in claim 3 above.
25. As to claims 32 and 34, it is rejected for the same reasons set forth in claims 4-6 above.
26. As to claim 37, it is rejected for the same reasons set forth in claim 9 above.
27. As to claim 39, it is rejected for the same reasons set forth in claims 22-24 above.
28. As to claim 40, it is rejected for the same reasons set forth in claim 26 above.
29. As to claim 41, it is rejected for the same reasons set forth in claim 27 above.
30. As to claim 42, it is rejected for the same reasons set forth in claim 28 above.
31. As to claim 43, it is rejected for the same reasons set forth in claim 29 above.

In addition, Iyer discloses a machine readable medium (memory, 84, fig. 5) having instructions (computer program) stored thereon that when executed by a processor (processor, 82, fig. 5) cause a system to (page 3, [0031]).

32. As to claim 44, it is rejected for the same reasons set forth in claim 30 above. In addition, Iyer discloses a machine readable medium (memory, 84, fig. 5) having instructions (computer program) stored thereon that when executed by a processor (processor, 82, fig. 5) cause a system to (page 3, [0031]).

33. As to claim 45, it is rejected for the same reasons set forth in claim 3 above.

34. As to claims 46 and 48, it is rejected for the same reasons set forth in claims 4-6 above.

35. As to claim 51, it is rejected for the same reasons set forth in claim 9 above.

36. As to claim 53, it is rejected for the same reasons set forth in claims 22-24 above.

37. As to claim 54, it is rejected for the same reasons set forth in claim 26 above.

38. As to claim 55, it is rejected for the same reasons set forth in claim 27 above.

39. As to claim 56, it is rejected for the same reasons set forth in claim 28 above.

40. As to claim 57, it is rejected for the same reasons set forth in claim 29 above.

41. As to claim 58, it is rejected for the same reasons set forth in claim 43 above.

In addition, Iyer discloses a computer data signal embodied in a transmission medium (communications link; page 1, [0012]; communication network; page 2, [0022]; Internet; page 3, [0029]).

42. As to claims 59 and 60, Iyer discloses the conversation can be within the context of a business application (sponsor the playing of particular songs for various participating visitors; page 5, 0040).

43. Claims 7, 8, 17, 18, 35, 36, 49 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iyer, Yamamoto, Yasue, further in view of Eide et al. (2004/0078455).

44. As to claims 7, 8, 17 and 18, Iyer discloses copying information in violation of the primary computing device (page 1, [0003], lines 13-14). However, Iyer does not specifically disclose the state information on at least primary computing device can be replicated to one secondary computing device; and setting the second computing

device as the new primary when the primary computing device fails. Eide discloses the state information on at least primary computing device can be replicated to one secondary computing device (page 1, [0003]; page 5, [0046]); and setting the second computing device as the new primary (page 1, [0004], lines 6-11; page 5, [0047]). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Iyer, Yamamoto and Eide because Eide' backup node would improve reliability and fault tolerant by allowing the backup node to continue operating previously performed by the primary node in the event of primary node failure.

45. Claims 35, 36, 49 and 50, they are rejected for the same reasons set forth in claims 7, 8, 17 and 18 above.

***Response to Arguments***

46. Applicant's arguments filed on 11/28/05 have been fully considered but they are not persuasive.

47. (1) Applicant asserts that applicant respectfully disagrees with the Examiner in that Iyer discloses conversation between an owner and a visitor. Figure 1 in Iyer shows that the owner and the visitor communicate only indirectly via the shared virtual area, and both paragraph [0010] and [0030] cited by the Examiner clearly state that a connection is established only between the visitor and the shared area. While owner of the shared area may control the shared area to grant or deny a request by the visitor,

there is no direct communication between the owner and the visitor.

In reply to argument (1), the examiner respectfully disagrees. Iyer discloses conversation between an owner and a visitor. On page 5, paragraph 38 of Iyer which states in part:

**It is also possible that the visitors can communicate with the owner and other visitors through messages, chat rooms, or other similar communication tools to express their views about whatever is performed in the SA. For instance, the visitors can comment on the music CD that is being played at the moment, and ask the owner to stop playing, to fast forward, or to reply the CD.**

The embodiment above clearly teaches the limitation of the claims (also page 3, 0026, "chat room" that allows two participants of the chat room to have a conversation). Therefore, for all of the reasons, claims 1-6, 9-11, 20-32, 34, 37, 39-46, 48, 51 and 53-60 are properly rejected.

(2) Applicant asserts that Eide does not teach providing a state upon request from a message during a conversation between two parties and storing information of the state in memory as claimed in the independent claims 1, 10, 29, and 43 in the present application.

In reply to argument (1), the examiner respectfully disagrees. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., providing a state upon request from a message during a conversation between two parties and storing information of the state in memory) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are

not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In addition, in response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Edie is only relied upon by the Examiner to teach "state information on at least primary computing device can be replicated to one secondary computing device" (page 1, [0003]; page 5, [0046]); and setting the second computing device as the new primary (page 1, [0004], lines 6-11; page 5, [0047]).

**48. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

49. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jungwon Chang whose telephone number is 571-272-3960. The examiner can normally be reached on 9:30-6:00 (Monday-Friday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John A Follansbee can be reached on 571-272-3964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jungwon Chang  
May 30, 2006